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PTO/SB/64 (09-04)  
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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
ZDRPT01

#16  
#

First named inventor: Zev Rosenberg

Application No.: 09/370,736

Art Unit: 3636

Filed: 08/09/1999

Examiner: Wilkens, J.

Title: Modular metal wall framing system

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (703) 872-9306

**RECEIVED**  
OCT 12 2004  
**OFFICE OF PETITIONS**

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

- ☒ Small entity-fee \$ 685 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is not available to the public (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date  
10/08/2004  
02 FC:2253

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Thomas Champagne Signature  
10/04/2004 Date  
Thomas Champagne  
36,478  
Typed or printed name Registration Number, if applicable  
12 1/2 Wall Street, Suite I  
828-253-8600  
Address Telephone Number  
Asheville, NC 28801  
Address

Enclosures: ☒ Fee Payment  
☒ Reply  
☐ Terminal Disclaimer Form  
☒ Additional sheets containing statements establishing unintentional delay  
☐ Other: \_\_\_\_\_

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

10/04/2004  
Date

Heather L. Pagella Signature

Heather L. Pagella  
Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	Filing Date	First Named Inventor	Atty. Docket No.	Confirmation No.
09/370,736	08/09/1999	Zev Rosenberg	ZDRPT01	

Invention	Examiner	Art Unit
Modular Metal Wall Framing System	Wilkens, J.	3636

**STATEMENTS ESTABLISHING UNINTENTIONAL DELAY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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OCT 12 2004

**OFFICE OF PETITIONS**

Sir:

The following are statements establishing Applicant's unintentional delay in filing the accompanying petition under 37 CFR 1.137(b).

1. My name is Thomas M. Champagne. I am a registered patent agent, Reg. No. 36,478. I am acting as Applicant's agent under 37 CFR 1.34.

2. Applicant filed the above-referenced patent application on August 9, 1999.

3. On January 4, 2000, Applicant was struck by a car and suffered a traumatic brain injury; he was in a coma until January 23, 2000. The injury adversely affected his vision and his cognitive ability. Applicant was an intensive care patient until February 4, 2000, at which time he was transferred to the Kessler Institute for Rehabilitation.

Applicant was a patient at this institute until March 17, 2000, and continued to receive structured cognitive therapy there for several months as an out-patient. Applicant continued to have impaired memory, varying from mild to severe, until early in 2002. In a doctor's report dated February 29, 2002, it was noted that Applicant had sustained permanent cognitive impairments in the areas of motor speed and abstract reasoning.

4. On June 27, 2000, the examiner prosecuting the above-referenced application issued an Action requiring response within the shortened statutory period of three months. On July 5, 2000, Applicant's attorney reported the Action and noted the due date for response of September 27, 2000. Applicant was still experiencing cognitive

difficulties at the time and was focused on treatment. As a result, Applicant disregarded the report letter, and possibly never read it. Applicant's attorney did not send a reminder to Applicant and did not submit a response to the Action, and as a result the application was abandoned. Applicant did not intend for the application to be abandoned, and was not notified by his attorney that the application had been abandoned.

5. Applicant later attempted to contact his attorney to determine the status of the application. Applicant had no recollection of having received the report letter. Applicant's attorney's law firm had been dissolved, and Applicant had difficulty locating the attorney who was in possession of his file and who knew the status of the application. In early 2004, Applicant located his attorney and negotiated the release of his file. Applicant regained possession of his patent application file on April 15, 2004.


6. Applicant contacted several patent practitioners with the objective of reviving the application. Applicant was put in contact with the undersigned agent in August, 2004 to sort out the details of Applicant's circumstances and to revive the application. The undersigned has prepared and submitted the accompanying petition and response.

7. The entire delay in filing the petition under 37 CFR 1.137(b) was unintentional, and was caused initially by Applicant's cognitive difficulties and later by Applicant's difficulty in obtaining his file and learning the status of his application.

Respectfully submitted,

September 30, 2004  
Date

TMC:hlp

  
\_\_\_\_\_  
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